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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

MICHAEL BRIONEZ, *et al.*, )

Plaintiffs, )

v. )

UNITED STATES DEPARTMENT OF  
 AGRICULTURE, *et al.*, )

Defendants. )

No. C 01 3969 CW

ORDER GRANTING  
 PRELIMINARY  
 APPROVAL OF SETTLEMENT  
 AGREEMENT, METHOD OF  
 PROVIDING NOTICE TO THE  
 CLASS, AND SCHEDULING  
 ORDER

Order Granting Preliminary  
 Approval of Settlement Agreement  
 No. C 01 3969 CW

1 On June 27, 2002, plaintiffs and defendants applied for preliminary approval of a Settlement  
2 Agreement, a form and method of dissemination of a class-action settlement notice, and a scheduling  
3 order.

4 The Court, having reviewed the parties' moving papers, the proposed Settlement Agreement  
5 between the parties, and the proposed form and method for providing class notice, finds, for good  
6 cause, as follows:

7 1. The Court has reviewed and considered the Settlement Agreement, the pleadings filed in this  
8 case, the experience of counsel for the parties, and arm's-length nature of the negotiations, and finds  
9 that a settlement along the terms described in the proposed Settlement Agreement is within the range of  
10 possible final approval and appears to be fair, adequate and reasonable.

11 2. The Court has also reviewed the proposed form of class-action settlement notice and finds it  
12 comports with the requirements of Rule 23(e) of the Federal Rules of Civil Procedure. The settlement  
13 notice fairly describes the terms and provisions of the Settlement Agreement, advises class members of  
14 the time and place of the Fairness Hearing, advises class members of how to register objections, and  
15 describes the rights and responsibilities of class members in the settlement approval process in a  
16 meaningful and informative way.

17 3. The parties propose disseminating an electronic mail to all permanent employees of Region  
18 5 of the Forest Service of the United States Department of Agriculture which will provide a link to a  
19 website containing the Notice and the Settlement Agreement. The parties will also disseminate a hard  
20 copy of the Notice and the Settlement Agreement via U.S. mail to former permanent Hispanic  
21 employees who have formal equal opportunity complaints based on non-selection because of race,  
22 national origin, or retaliation currently pending before defendants. The Court finds such notice is the  
23 best notice practicable under the circumstances.

1 Based upon the forgoing findings of fact and conclusions of law, it is HEREBY ORDERED  
2 THAT:

3 1. the Settlement Agreement between plaintiffs and defendants, attached hereto as Exhibit 1, is  
4 preliminarily approved;

5 2. the Notice of Proposed Settlement and Fairness Hearing, attached hereto as Exhibit 2, is  
6 approved by this Court. The electronic mail providing access to the Notice and the Settlement  
7 Agreement shall be sent within **ten (10)** days of the date of this Order. Hard copies of the Notice and  
8 the Settlement Agreement will be mailed to class members who are former employees within **ten (10)**  
9 days of the date of this Order.

10 3. on **October 18, 2002, at 10:00 a.m.**, a hearing will be held at the United States District  
11 Court, 1301 Clay Street, Courtroom 2, 4th Floor, Oakland, California, 94612, to determine the  
12 fairness, reasonableness and adequacy of the terms and conditions of the Settlement Agreement  
13 ("Fairness Hearing");

14 4. any member of the settlement class may appear personally or by counsel at the Fairness  
15 Hearing and may object or express his view regarding the Settlement Agreement, and may present  
16 evidence, briefs, or other papers, that may be proper and relevant to the issues to be heard and  
17 determined by this Court. However, a settlement class member may not be heard at the Fairness  
18 Hearing, nor be allowed to contest the approval of this Settlement Agreement, unless, before the date  
19 set forth in the settlement notice, such person files with the Clerk of this Court, with copies to counsel  
20 for plaintiffs and defendants, such person's objections, in writing, together with all papers to be  
21 submitted to this Court at the Fairness Hearing;

22 5. on or before the date fixed by this Court for the Fairness Hearing, the parties shall cause to  
23 be filed with the Clerk of this Court a declaration from the appropriate Region 5 employee(s) showing  
24 that the notice has been sent via electronic mail and U.S. mail in accordance with this Order;

1 6. any response or opposition to the proposed Settlement Agreement shall be filed by August  
2 16, 2002. The parties may file a reply to any objections by September 16, 2002;

3 7. the Fairness Hearing may, from time to time, and without further notice to the Class, be  
4 continued or adjourned by order of this Court;

5 8. if the parties are unable to reach an agreement on reasonable attorneys' fees and costs, after  
6 the Fairness Hearing the Court will enter an order regarding whether and in what amount attorneys' fees  
7 and reimbursement of expenses should be awarded to plaintiffs' counsel; and

8 9. pending final determination on approval of the Settlement Agreement, neither the named  
9 plaintiffs nor any class member, either directly or in any other capacity, will commence or prosecute any  
10 action or proceeding in any court or tribunal asserting any of the class claims against defendant Region

11 5.

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13 **IT IS SO ORDERED ON THIS 2nd DAY OF July, 2002.**

14  
15 /s/ CLAUDIA WILKEN  
16 THE HONORABLE CLAUDIA WILKEN  
United States District Judge  
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